

request, be conducted prior to the end of the one-year period prescribed under § 305.10(b) of this part when the State is being penalized under § 305.100 of this part.

[55 FR 8467, Mar. 8, 1990]

§ 305.12 State comments.

(a) Prior to the start of the actual audit, the Office will hold an audit entrance conference with the IV-D agency. At that conference, the Office will explain how the audit will be performed and make any necessary arrangements.

(b) Prior to concluding the audit fieldwork, the Office will afford the State IV-D agency an opportunity for an audit exit conference at which time preliminary audit findings will be discussed and the IV-D agency may present any additional matter it believes should be considered in the audit findings.

(c) At the conclusion of the audit fieldwork, the Office will prepare and send to the IV-D agency a copy of its interim report on the results of the audit. Within 45 days from the date the report was sent by certified mail, the IV-D agency may submit written comments on any part of the report which the IV-D agency believes to be in error. The Office will incorporate such comments, if any, into the final audit report.

[41 FR 55348, Dec. 20, 1976, as amended at 59 FR 66252, Dec. 23, 1994]

§ 305.13 State cooperation in annual audit.

(a) Each State shall make available to the Office such records or other supporting documentation as the Office's audit staff may request. The State shall also make available personnel associated with the State's IV-D program to provide answers which the audit staff may find necessary in order to conduct or complete the audit.

(b) Failure to comply with the requirements of this section may necessitate a finding that the State has failed to comply with the particular criteria being audited.

§ 305.20 Effective support enforcement program.

For the purposes of this part and section 403(h) of the Act, in order to be found to have an effective program in substantial compliance with the requirements of title IV-D of the Act:

(a) For any audit period which begins on or after December 23, 1994, a State must meet the IV-D State plan requirements contained in Part 302 of this chapter measured as follows:

(1) The State must meet the requirements under the following criteria:

(i) Statewide operations, § 302.10;

(ii) Reports and maintenance of records, § 302.15(a);

(iii) Separation of cash handling and accounting functions, § 302.20; and

(iv) Notice of collection of assigned support, § 302.54.

(2) The State must have and use procedures required under the following criteria in at least 90 percent of the cases reviewed for each criterion:

(i) Establishment of cases, § 303.2(a); and

(ii) Case closure criteria, § 303.11.

(3) The State must have and use procedures required under the following criteria in at least 75 percent of the cases reviewed for each criterion:

(i) Collection and distribution of support payments, including: Collection and distribution of support payments by the IV-D agency under § 302.32(b) and (f); distribution of support collections under § 302.51; and distribution of support collected in title IV-E foster care maintenance cases under § 302.52;

(ii) Establishment of paternity and support orders, including: Establishment of a case under § 303.2(b); services to individuals not receiving AFDC or title IV-E foster care assistance, under § 302.33(a)(1) through (4); provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (8) through (10); location of non-custodial parents under § 303.3; establishment of paternity under § 303.5(a) and (f); guidelines for setting child support awards under § 302.56; and establishment of support obligations under § 303.4(d), (e) and (f);

(iii) Enforcement of support obligations, including, in all appropriate cases: Establishment of a case under

§ 303.2(b); services to individuals not receiving AFDC or title IV-E foster care assistance, under § 302.33(a)(1) through (4); provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (8) through (10); location of non-custodial parents under § 303.3; enforcement of support obligations under § 303.6, including submitting once a year all appropriate cases in accordance with § 303.6(c)(3) to State and Federal income tax refund offset; and wage withholding under § 303.100. In cases in which wage withholding cannot be implemented or is not available and the non-custodial parent has been located, States must use or attempt to use at least one enforcement technique available under State law in addition to Federal and State tax refund offset, in accordance with State laws and procedures and applicable State guidelines developed under § 302.70(b) of this chapter;

(iv) Review and adjustment of child support orders, including: establishment of a case under § 303.2(b); services to individuals not receiving AFDC or title IV-E foster care assistance, under § 302.33(a)(1) through (4); provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (8) through (10); location of non-custodial parents under § 303.3; guidelines for setting child support awards under § 302.56; and review and adjustment of support obligations under § 303.8; and

(v) Medical support, including: establishment of a case under § 303.2(b); services to individuals not receiving AFDC or title IV-E foster care assistance, under § 302.33(a)(1) through (4); provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (8) through (10); location of non-custodial parents under § 303.3; securing medical support information under § 303.30; and securing and enforcing medical support obligations under § 303.31.

(4) With respect to the 75 percent standard in § 305.20(a)(3):

(i) Notwithstanding timeframes for establishment of cases in § 303.2(b); provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(4) through (6), (8) and (9); location and support order establishment under §§ 303.3(b)(3) and (5), and 303.4(d), if a

support order needs to be established in a case and an order is established during the audit period in accordance with the State's guidelines for setting child support awards, the State will be considered to have taken appropriate action in that case for audit purposes.

(ii) Notwithstanding timeframes for establishment of cases in § 303.2(b); provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(4) through (6), (8) and (9); and location and review and adjustment of support orders contained in §§ 303.3(b)(3) and (5), and 303.8, if a particular case has been reviewed and meets the conditions for adjustment under State laws and procedures and § 303.8, and the order is adjusted, or a determination is made, as a result of a review, during the audit period, that an adjustment is not needed, in accordance with the State's guidelines for setting child support awards, the State will be considered to have taken appropriate action in that case for audit purposes.

(iii) Notwithstanding timeframes for establishment of cases in § 303.2(b); provision of services in interstate IV-D cases under § 303.7 (a), (b) and (c) (4) through (6), (8) and (9); and location and wage withholding in §§ 303.3(b) (3) and (5), and 303.100, if wage withholding is appropriate in a particular case and wage withholding is implemented and wages are withheld during the audit period, the State will be considered to have taken appropriate action in that case for audit purposes.

(iv) Notwithstanding timeframes for establishment of cases in § 303.2(b); provision of services in interstate IV-D cases under § 303.7 (a), (b) and (c) (4) through (6), (8) and (9); and location and enforcement of support obligations in §§ 303.3(b) (3) and (5), and 303.6, if wage withholding is not appropriate in a particular case, and the State uses at least one enforcement technique available under State law, in addition to Federal and State income tax refund offset, which results in a collection received during the audit period, the State will be considered to have taken appropriate action in the case for audit purposes.

(5) The State must meet the requirements for expedited processes under § 303.101(b)(2) (i) and (iii), and (e).

§§ 305.21—305.57

(6) The State must meet the criteria referred to in §305.98(c) of this part relating to the performance indicators prescribed in §305.98(a).

(b) [Reserved]

[59 FR 66252, Dec. 23, 1994]

§§ 305.21—305.57 [Reserved]

§305.98 Performance indicators and audit criteria.

(a) Beginning with the fiscal year 1986 audit period, the Office will use the following performance indicators in determining whether each State has an effective IV-D program.

(1) AFDC IV-D collections divided by total IV-D expenditures (less laboratory cost incurred in determining paternity at State option);

(2) Non-AFDC IV-D collections divided by total IV-D expenditures (less laboratory costs incurred in determining paternity at State option); and

(3) AFDC IV-D collections divided by IV-A assistance payments (Less payments to unemployed parents).

(b) Beginning with the fiscal year 1988 audit period, the Office will use the performance indicators prescribed in paragraph (a) of this section and the following performance indicators in determining whether each State has an effective IV-D program.

(1) AFDC IV-D collections on support due (for a fiscal year) divided by total AFDC support due (for the same fiscal year);

(2) Non-AFDC IV-D collections on support due (for a fiscal year) divided by total non-AFDC support due (for the same fiscal year);

(3) AFDC IV-D collections on support due (for prior periods) divided by total AFDC support due (for the same periods); and

(4) Non-AFDC IV-D collection on support due (for prior periods) divided by total non-AFDC support due (for the same periods).

(c) The Office shall use the following procedures and audit criteria to measure State performance.

(1) The ratio for each of the performance indicators in paragraph (a) of this section will be evaluated on the basis of the scores in the tables in paragraphs (c)(1)(i) through (iii) of this section. The tables show the scores the

45 CFR Ch. III (10–1–97 Edition)

States will receive for different levels of performance.

(i) Dollar of AFDC IV-D collections per dollar of total IV-D expenditures (less laboratory costs incurred in determining paternity at State option).

Level of performance	Score
\$.00	0
\$.01–\$.09	2
\$.10–\$.19	4
\$.20–\$.29	6
\$.30–\$.39	8
\$.40–\$.49	10
\$.50–\$.59	12
\$.60–\$.69	14
\$.70–\$.79	16
\$.80–\$.89	18
\$.90–\$.99	20
\$1.00–\$1.19	22
\$1.20–\$1.39	24
\$1.40 or more	25

(ii) Dollar of non-AFDC IV-D collections per dollar of total IV-D expenditures (less laboratory costs incurred in determining paternity at State option).

Level of performance	Score
\$.00	0
\$.01–\$.09	4
\$.10–\$.19	8
\$.20–\$.29	12
\$.30–\$.39	16
\$.40–\$.49	20
\$.50–\$.59	24
\$.60–\$.69	28
\$.70–\$.79	32
\$.80–\$.89	36
\$.90–\$.99	40
\$1.00–\$1.19	44
\$1.20–\$1.39	48
\$1.40 or more	50

(iii) AFDC IV-D collections divided by IV-A assistance payments (less payments to unemployed parents).

Level of performance (in percent)	Score
0 to 1.9 percent	0
2 to 3.9 percent	5
4 to 4.9 percent	10
5 to 5.9 percent	15
6 to 6.9 percent	20
7 or more	25

(2) To be found to meet the audit criteria, a State's total score must equal or exceed 70.

Examples. A State achieves levels of performance of \$1.22, \$1.35 and 6.5 percent on the performance indicators in paragraph (a) of this section. The State would receive individual scores of 24, 48 and 20 on these performance indicators. The State would be found to meet the audit criteria because the total score is 92.